



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2021-0610]

RIN 1625-AA00

Safety Zone, Recurring Events in Captain of the Port Duluth – Bridgefest Regatta

Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will enforce a safety zone for the Bridgefest Regatta Fireworks in Houghton, MI. This action is necessary to protect participants and spectators during the Bridgefest Regatta Fireworks. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or their designated on-scene representative.

DATES: This rule is effective from 9:15 p.m. through 9:45 p.m. on September 4, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0610 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LTJG Joseph R. McGinnis, telephone 218-725-3818, email DuluthWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security

FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The event already has established dates in 33 CFR 165.943 Table 1, and typically takes place in mid-June. However, this year the event will take place in September. The impact of organizer budgeting constraints in June, 2021 prevented the event from occurring within the timeframe published in the Federal Register. Thus, the Safety Zone must be published as a Temporary Final Rule this year because a Notice of Enforcement cannot be used to enforce a rule this far outside of the dates approved in the Federal Registrar. We must establish this safety zone by September 4, 2021 in order to protect the public from the hazards associated with a fireworks event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with a triggering event from the Bridgefest Regatta Fireworks.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation

No. 00170.1, Revision No. 01.2. The Captain of the Port Duluth (COTP) has determined that potential hazards associated with a firework triggering event on September 4, 2021, will be a safety concern for anyone within a 1120 foot radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the event occurs.

IV. Discussion of the Rule

This rule establishes a safety zone from 9:15 p.m. through 9:45 p.m. on September 4, 2021. All waters of the Keweenaw Waterway in Hancock, MI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 47°07'22" N, 088°35'28" W. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the fact that there is little commercial traffic on the Portage Canal and the size of the area being enforced is small enough to allow vessels to transit safely but must be aware of their surroundings. Coast Guard can be contacted VHF Channel 16 for any discrepancies or hazards found during

the event.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit near the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves all waters of the Keweenaw Waterway in Hancock, MI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 47°07'22" N, 088°35'28" W. There is no fauna, flora, or ecosystem of concern that is in the vicinity of the display that will be catastrophically effected during a 30 minute firework show. It is categorically excluded

from further review under paragraph L[60(a)] of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08-0610 to read as follows:

§ 165.T08-610 Safety Zone, Recurring Events in Captain of the Port Duluth – Bridgefest Regatta Fireworks.

(a) Location. The following area is a temporary safety zone: All waters of the Keweenaw Waterway in Hancock, MI within the arc of a circle with a radius of no more than 1,120 feet from the launch site at position 47°07'22" N, 088°35'28" W.

(b) Definitions. As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Duluth (COTP) in the enforcement of the safety zone.

(c) Regulations. (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) is prohibited unless authorized by the Captain of the Port, Duluth or his designated

representative.

(2) Before a vessel operator may enter or operate within the safety zone, they must obtain permission from the Captain of the Port, Duluth, or a designated representative via VHF Channel 16 or telephone at (906) 635-3233. Vessel operators given permission to enter or operate in the safety zone must comply with all orders given to them by the Captain of the Port, Duluth or a designated representative.

(d) Enforcement period. This section will be enforced from 9:15 p.m. through 9:45 p.m. on September 4, 2021.

Dated: August 6, 2021.

F. M. Smith,
CDR, U.S. Coast Guard,
Captain of the Port Duluth.

[FR Doc. 2021-17238 Filed: 8/16/2021 8:45 am; Publication Date: 8/17/2021]